REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-20 are pending.

In the Official Action, Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over <u>Natarajan et al.</u> (U.S. Patent No. 6,505,244, hereinafter <u>Natarajan</u>) in view of <u>Evans</u> (U.S. Patent No. 5,694,524) and <u>Yates et al.</u> (U.S. Patent No. 6,330,586, hereinafter <u>Yates</u>).

Briefly recapitulating, Claim 1 is directed to a method for modeling video teleconferencing network reliability, the method comprising obtaining historical data for multiple video conferences, storing said historical data in a call history table, said historical data referenced to video teleconferencing equipment vendor or model identification information, executing a modeling algorithm that produces a model representing the historical data, analyzing the model to identify characteristics associated with undesirable outcomes for the video conferences, and configuring a video teleconferencing network to avoid at least one of the identified characteristics associated with undesirable outcomes. Independent Claims 11 and 20 are directed to alternative embodiments of Applicants' invention, reciting similar features as those in Claim 1.

<u>Natarajan</u> describes a feedback-based adaptive network wherein at least a portion of the network elements report operating information relating to network conditions to a centralized data store. The information which is reported to the data store is analyzed by a policy engine which includes a plurality of application specific plug-in policies for analyzing selected information from the data store and for computing updated control information based

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upon the analysis of the information. The updated control information is fed back to selected

network elements to thereby affect operation of the selected elements.[1]

Figures 16-18 of Natarajan provide an illustrative example of how various network

elements interact with each other to form a feedback-based adaptive network. In particular,

Figure 17 shows a flow diagram of how the feedback-based network of Figure 16 adapts to

changing conditions in the network as a video conference is initiated between user 1 and user

2. A video conference application between user 1 and user 2 is one example of a user

application which may require additional bandwidth in order to provide a satisfactory level

quality for using the application to service multiple users across the network. Thus, the video

conference example may be abstracted to be applied to any user application requiring

additional network resources to provide a satisfactory level of quality for the application to

run over a network environment. When a video conference begins between users 1 and 2, the

network may respond by initiating one or more bandwidth policies at the policy engine 1654

and may also respond by initiating one or more policies/procedures at the monitor system

1662. Thus, at 1704 the frame relay CIR policy is initiated at the policy engine 1654 if this

policy has not already been initiated. While the frame relay CIR policy is being initiated by

the policy engine at 1704, a CIR policy monitor procedure is concurrently initiated (1716) at

monitor system 1662, if this procedure has not already been initiated. At 1706, each of the

links a, b, c, d of Figure 16 reports the number of packets dropped on that link to data storage

1652. The frame relay CIR policy at the policy engine 1654 uses this data to generate (1708)

updated CIR parameter values for each of the respective links. The updated CIR parameter

values generated by the policy engine are then written (1710) into the data store 1652. Once

the appropriate network elements have been notified of changed network conditions, each of

the network elements may retrieve a respective updated CIR parameter information from the

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[1] Natarajan, Abstract.

data store 1652 and then update its configuration using the updated CIR parameter

information.[2]

However, Natarajan fails to disclose or suggest use of a call history table and

vendor/model identification information as recited in amended Claim 1, 11 and 20. The

Official Action cites Figure 15 and column 7, lines 12-43 for a disclosure of Applicants'

claimed storing of historical data in a call history table. Applicants traverse this finding and

note that the cited passage of Natarajan describes

> "The feedback-based adaptive network of the present invention utilizes a
> technique wherein at least a portion of the network elements (e.g., 204A,
> 204B, 208A, 208B, etc.) report network information relating to network
> conditions to a centralized data storage entity (e.g., data store 252). The
> reported data corresponds to information relating to the current condition or
> status of each of the reporting network elements in the network. The
> information which is reported to the data store 252 is analyzed by a policy
> engine 254. The policy engine 254 includes a plurality of application specific
> plug-in policies for analyzing application specific information from the data
> store and for computing updated control information based upon the analysis
> of the information. The updated control information may include any type of
> information, parameters, and/or actions which may be used to affect the
> operation of one or more network elements. The updated control information
> is then fed back to selected network elements to thereby affect operation of
> the selected elements and/or network. Typically, when the operation of a
> network element has been affected, its corresponding operating parameters
> and/or operating information will change. The changed operating parameters
> are then reported to the data store 252 and analyzed by the policy engine 254.
> The policy engine may then generate new or updated control information or
> parameters for affecting the operation of selected elements in the network. In
> this way, the network of FIG. 2 is configured to adapt to changing conditions
> in the network by providing a dynamic feedback mechanism. Using this
> dynamic feedback mechanism, selected network elements may be
> dynamically and automatically reconfigured to cause the performance of
> various aspects of the network to conform with desired performance criteria."

Applicants note that the above-cited passage of Natarajan discloses nothing related to call

history or a call history table. The only data apparently stored in this passage is "changed

operating parameters are then reported to the data store 252." However, neither the recited

changed operating parameters nor any other information (e.g., the control information and

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[2] Natarajan, column 29, line 36 through column 30, line 66.

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parameter information analyzed by the policy engine 254) is call history data. Furthermore, a word search of this reference finds no occurrences of the terms "call history", "history" or "call" within Natarajan. Applicants request specific citations to the various information types disclosed in Natarajan that supposedly correspond to Applicants' claimed call history. Failing any specific citations, Applicants can only assume that the rejection is based upon an assertion of inherency.

Applicant respectfully submits that any assertion of inherency is insufficient to show that Natarajan inherently teaches "storing said historical data in a call history table, said historical data referenced to video teleconferencing equipment vendor or model identification information, executing a modeling algorithm that produces a model representing the historical data" because it is not possible to show "that the alleged inherent characteristic necessarily flows from the teachings of the applied prior art"[3] The Official Action provides no rationale for a finding of inherency. "The fact that a certain result may occur or be present in the prior art is not sufficient to establish inherency of that result or characteristic."[4] "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'"[5] Because there is no plausible explanation for why

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[3] See MPEP 2112 (emphasis in original) (citation omitted). See also same section stating that "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic," (emphasis in original). See also In re Robertson, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999) ("[t]o establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill,'" citing Continental Can Co. v. Monsanto Co., 948 F2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991); and "[i]nherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient," Id. at 1269 (citation omitted)).

[4] In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1995, 1957 (Fed. Cir. 1993).

Applicants' claimed features are inherent in the teachings of Natarajan, Applicants submit any rejection based upon inherency is improper.[6]

MPEP § 2131 notes that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also MPEP § 2131.02. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Because Natarajan does not disclose or suggest all the features recited in Claims 1, 11 and 20, Natarajan does not anticipate the invention recited in Claims 1, 11 and 20, and all claims depending therefrom.

Applicants have considered Yates and Evans and submit these references do not cure the deficiencies of Natarajan. As none of the cited prior art, individually or in combination, disclose or suggest all the elements of independent Claims 1, 11 and 20, Applicants submit the inventions defined by Claims 1, 11 and 20, and all claims depending therefrom, are not rendered obvious by the asserted references for at least the reasons stated above.[7]

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[5] *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

[6] MPEP § 2112, IV "Examiner must provide rationale or evidence tending to show inherency."

[7] MPEP § 2142 "...the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Accordingly, in light of the previous discussion, Applicants respectfully submit that

the present application is in condition for allowance and respectfully request an early and

favorable action to that effect.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Michael E. Monaco
Registration No. 52,041

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

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